



South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

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# HOUSE WEEK IN REVIEW

The House of Representatives amended and approved **H.3647**, a bill **ELIMINATING SUNDAY BLUE LAW RESTRICTIONS**. The bill eliminates throughout the state Blue Law provisions which restrict the sale of certain items and prohibit certain work and other activities on Sundays. The legislation provides that an employee of a business that operates on Sunday has the option of refusing to work until 1:30 p.m. on Sunday if he is conscientiously opposed to Sunday work. This conscientious objector provision does not apply to employees, including support, maintenance, repair, and other service personnel, of a manufacturing establishment or a research and development operation that by its nature or for economic reasons involves processes requiring continuous and uninterrupted operation. The legislation makes no changes to provisions that prohibit or otherwise regulate the sale of alcoholic liquors, beer, or wine on Sunday.

The House approved **S.320**, a bill concerning **UNIVERSITY OF SOUTH CAROLINA ATHLETIC FACILITIES REVENUE BONDS**, and enrolled the legislation for ratification. The bill raises from forty million dollars to sixty million dollars, the outstanding debt limit for University of South Carolina athletic facilities revenue bonds.

The House approved **S.483**, the “**SOUTH CAROLINA STATE UNIVERSITY ACADEMIC AND ADMINISTRATIVE FACILITIES BOND ACT**”, and enrolled the bill for ratification. This bill authorizes (subject to approval of the Joint Bond Review Committee and the State Budget and Control Board) and prescribes the manner in which, and conditions under which, South Carolina State University may issue certain revenue bonds to finance or refinance all or part of the cost of acquisition, construction, renovation, and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing certain academic and administrative buildings.

The House amended, approved, and sent to the Senate **H.3039**. This bill provides that **FAMILY COURT AND PROBATE COURT HAVE CONCURRENT JURISDICTION TO HEAR AND DETERMINE MATTERS RELATING TO PATERNITY, COMMON-LAW MARRIAGE, AND INTERPRETATION OF MARITAL AGREEMENTS**. However, the bill further provides that the concurrent jurisdiction of the probate court extends only to matters dealing with the estate, trust, and guardianship and conservatorship actions before the probate court.

The House amended, approved, and sent to the Senate **H.3243**, the “**YOUTH ACCESS TO TOBACCO PREVENTION ACT OF 2005**”. Under this bill, it is unlawful for a person to sell, furnish, give, distribute, purchase for, or provide a minor under the age of 18 a tobacco product. The bill also provides that it is unlawful to sell a tobacco product to an individual who does not present upon demand proper proof of age. Proof of age is not required from an individual who the person reasonably believes to be over 27 years of age. The bill further provides that a retail distributor of tobacco products must provide training to its employees about selling tobacco related products. Any retail establishment that does not provide training is subject to a fine of not more than \$1,000 dollars.

The bill makes it unlawful for a person under 18 to possess a tobacco product. Exceptions are made for people under 18 who make certain deliveries.

Violations are misdemeanors triable exclusively in either municipal or magistrate court. For a first offense, the penalty is a fine of not less than \$100 dollars. For a second offense, which occurs within three years of the first offense, the penalty is a fine of not less than \$200 dollars. For third and subsequent offenses, which occur within three years of the first offense, the penalty is a fine of not less than \$300 dollars. In lieu of these penalties, the court may require an individual who is less than 18 who illegally purchases or possesses a tobacco product to perform not less than 24 hours of community service for the first offense and not less than 40 hours of community service for a second or subsequent offense. A person who is less than 18 may have his or her record expunged upon becoming 18 if the person has paid the fine imposed and successfully completed any court-ordered community service. A violation of the provisions of this bill does not violate an establishment's beer and wine permit and is not a ground for revocation or suspension of a beer and wine permit. Also, a conviction does not affect a person's eligibility for a LIFE Scholarship or any other state sponsored scholarship program.

The House approved and sent to the Senate **H.3846**, a joint resolution **PROPOSING FOUR CONSTITUTIONAL AMENDMENTS REGARDING THE GENERAL FUND AND THE CAPITAL RESERVE FUND**. This resolution requires a referendum with four separate questions to determine whether the South Carolina Constitution should be amended so as to:

1. Provide that the State's General Reserve Fund shall consist not only of three percent of the General Fund Revenue of the latest completed fiscal year, but also the first ten percent of any surplus general fund revenues accruing for any fiscal year;
2. Provide that appropriations from the Capital Reserve Fund take effect on September first of the following fiscal year;
3. Provide that surplus General Fund Revenues for any fiscal year not otherwise obligated and appropriations to the Capital Reserve Fund are deemed to have occurred and are available for expenditure after September first of the next fiscal year and after the state's financial books for the previous fiscal year have been closed;
4. Provide that if the Comptroller General determines upon the closing of the state's financial books for a fiscal year that the State has a negative Generally Accepted Accounting Principles Fund balance (GAAP Fund Deficit), any appropriations contained in a general or supplemental appropriations act which expends surplus general fund revenues or in a Capital Reserve Fund appropriations act to be effective during the next fiscal year are suspended and must be used to the extent necessary to offset the GAAP Fund deficit in the manner the General Assembly shall provide.

The House amended, approved, and sent to the Senate **H.3794**, a bill that **MAKES CHANGES TO THE SOUTH CAROLINA RESEARCH AUTHORITY (SCRA)**, including but not limited to the following:

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- Creates two divisions within the SCRA - the South Carolina Research Division (SCRD) and the South Carolina Research Innovation Centers (SCRIC);
- Revises the composition of the SCRA board, including:
  - Deleting the Chair of the State Development Board and the Chair of the Technical Advisory Board of the SCRA as *ex officio* members and adding as *ex officio* members, the Chair of the House Ways and Means Committee, the Chair of the Senate Finance Committee, and the Secretary of Commerce, or their respective designees;
  - Creating an Executive Committee of the board, comprised of the Presidents of Clemson, MUSC, and USC-Columbia, and the Governor or his designee, and the Chairman of the Board of Trustees, and authorizing this Executive Committee to implement recommendations and direct the executive director on policy decisions for day-to-day operations of the SCRA;
  - Requiring the Executive Committee to appoint a business and science advisory board to include representatives from each research university, the venture capital industry, relevant industry leaders, and the Department of Commerce, and charging this advisory board to advise the board when requested;
- Deletes the Technical Advisory Board of the SCRA, whose current purpose is to advise and assist the board when so requested;
- Requires and provides for the SCRIC to establish three Research Innovation Centers in South Carolina (one in Charleston associated with MUSC, one in Columbia associated with USC, and one in the Upstate associated with Clemson) to: enhance the research and technology transition capabilities of the three research universities, establish a continuing dialogue forum between the research universities and industry, and promote the development of high tech industries and applied research facilities in South Carolina;
- Defines “Research Park” as the Clemson Research Park in Anderson County, the Carolina Research Park in Columbia, any park developed at Line Street and Hagood Avenue in downtown Charleston, and any park mutually designated by the SCRA and the participating Research University;
- Requires that the SCRIC be funded by a direct payment of funds by the SCRA, as delineated in the bill, for at least the first three years of the centers’ existence;
- Provides that after this three year period, the State shall explore methods to provide additional funding (may include direct appropriation from the General Fund, private donations, or other funds) until the Innovation Centers have a reasonable opportunity to become self-sustaining;
- Requires that costs associated with the physical space for the centers must be financed through the issuance of general obligation debt or by private match funding, as provided in the bill;
- Authorizes the SCRIC to:
  - admit qualified companies, as described in the bill, and pre-company initiatives into a center and grant these companies up to two hundred thousand dollars each as well as physical and staff resources;

- allow these companies to remain in an innovation center for up to four years or until exceeding one million dollars in annual commercial revenue;
- Allow rent and fees for services initially to be waived;

Requires the SCRIC to use monetary grants for proof-of-concept studies, Small Business Innovation Research program matches, the protection of intellectual property, and other similar uses.

The House approved and sent to the Senate **H.3297**. This bill **PROVIDES AN EXEMPTION FROM SALES TAX FOR PRESCRIPTIONS FOR THE TREATMENT OF RHEUMATOID ARTHRITIS**.

The House approved and sent to the Senate **H.3580**. This bill **ALLOWS AN ANNUAL DEDUCTION OF UP TO THREE THOUSAND DOLLARS FROM TAXABLE INCOME OF MEMBERS OF THE STATE GUARD** who meet certain requirements delineated in the bill.

The House amended, approved, and sent to the Senate **H.3813**. This bill establishes and provides for the **NATIONAL GUARD RETIREMENT SYSTEM** (the System) to provide pension benefits for members of the National Guard of South Carolina who became members of the National Guard of South Carolina before July 1, 1993. Administration and operation of the System are vested in the State Budget and Control Board (the Board), and the Board is charged to engage the actuarial and other services required to transact the business of the System. The bill requires the Actuary to investigate at least once every five years, the mortality, service, and compensation experience of the System participants and make a valuation of the contingent assets and liabilities of the System, and adopt for the System such tables as are necessary, based on this investigation. The Actuary is also required to make a valuation of the contingent assets and liabilities of the System at least every other year. The bill requires that every eligible member of the National Guard of South Carolina who became a member before July 1, 1993, shall receive from the System, commencing at age sixty, a fifty dollar per month pension for twenty years creditable service with an additional five dollars per month for each additional year of creditable service, with the total pension not to exceed one hundred dollars per month. To receive the pension, each member must have served and qualified for at least twenty years creditable military service, as provided in the bill; must have at least fifteen years of this service as a member of the South Carolina National Guard with the final or last ten years of service before retirement in the National Guard of South Carolina; must have received an honorable discharge from the National Guard of South Carolina. The bill prohibits payment of any benefit to beneficiaries upon the member's death. Also, individuals receiving retired pay or physical or disability retirement from any of the regular components of the United States Armed Forces are not eligible for benefits under this System. Benefits under this System are exempt from South Carolina income tax.

The House amended, approved, and sent to the Senate **H.3799**, a joint resolution that authorizes and provides for state agencies to establish a **SPECIAL ACCOUNT FOR THE PURPOSE OF FUNDING NONRECURRING IMPLEMENTATION EXPENSES OF THE SOUTH CAROLINA ENTERPRISE INFORMATION SYSTEM (SCEIS)**. The SCEIS is a single enterprise information system to be used by state agencies, commissions, and boards that process their respective financial and payroll information

through the Comptroller General's legacy applications today. The principal objectives are to reduce administrative costs; improve accuracy, timeliness and security of financial transactions and information; and improve services provided to South Carolina citizens and businesses. The joint resolution also expresses the General Assembly's intent that agencies pursue grants and other nonstate funding sources to fund their portion of the SCEIS implementation.

The House approved and sent to the Senate **H.3490**, a bill pertaining to **INCIDENTAL CHECK-CASHING BY RETAIL BUSINESSES**. This bill revises the exemption from check-cashing service licensure requirements that is provided for a person who, incidentally to or independently of the operation of a bona fide retail business, from time to time cashes a check, draft, or money order, so as to provide that a fee may be charged for such an incidental service so long as it does not exceed the statutory fee schedule.

The House approved and sent to the Senate **H.3741**. This bill provides **MEDICAL SCHOOL DEBT FORGIVENESS FOR DOCTORS WHO SPECIALIZE IN GERIATRIC MEDICINE**. The bill establishes a state loan repayment program within the Division of Aging. The program will reimburse student loan payments for up to four physicians at a time who are licensed in South Carolina and are trained in geriatrics. In order to be eligible, a physician will have to enter into a contract with the Division of Aging to practice in the State for at least five consecutive years, accept Medicare and Medicaid patients, accept insurance assignment rates, and not discriminate against patients based on the ability to pay. The program will reimburse student loan payments for these physicians of up to \$35,000 per year times the number of years the physician completed in a geriatric fellowship. **H.3741** establishes a Physician Advisory Board to review applicants and recommend physicians for the program. The board will be appointed by the Division of Aging and composed of representatives of: the South Carolina Medical Association; the South Carolina Commission of Higher Education; the Medical University of South Carolina; the USC School of Medicine; and a fellow in geriatrics or geropsychiatry. Board members will serve at the pleasure of the Division and without compensation except for mileage, subsistence and per diem. The board is directed to consider demonstrable need and try to select candidates who will continue to practice in the State after completing the program contract. Applicants will be prioritized as follows:

1. South Carolina natives completing fellowship programs in South Carolina;
2. Out-of-state applicants completing fellowship programs in South Carolina;
3. South Carolina natives completing out-of-state fellowship programs;
4. Out-of-state applicants completing out-of-state fellowship programs.

If a physician in the program is found to be out of compliance with the terms of his or her contract, the Advisory Board is to recommend a penalty. The amount of the penalty is not to exceed three times the total reimbursement received plus interest at the prime rate plus ten percent.

The House amended, approved, and sent to the Senate **H.3467**. This bill authorizes the **DEPARTMENT OF SOCIAL SERVICES (DSS) TO IMPOSE FINES WHEN THERE IS A VIOLATION OF STATUTE OR REGULATION PERTAINING TO A PROGRAM DSS REGULATES**. DSS regulates programs for childcare, residential group homes, foster homes and adoption/placement agencies. Currently, the only action DSS can take when one of these facilities is in violation is to issue a warning or to suspend, revoke or deny a

license or registration. Foster homes would be exempt from civil fines imposed by DSS. H.3467 requires DSS to promulgate regulations that will cover conditions under which a fine will be assessed as well as a schedule of fine ranges that take into account the severity and frequency of violations. The regulations must include the right to a contested case hearing by DSS and an opportunity for judicial review of the agency's decisions. H.3467 provides that licenses for residential group homes, childcare facilities, and adoption/placement agencies will be good for two years. Fire inspections will continue to be required on an annual basis for residential group homes and child care facilities.

The House approved and sent to the Senate H.3156, regarding the **POWERS OF THE MEDICAL UNIVERSITY HOSPITAL AUTHORITY**. The bill provides that a capital lease purchase by the Medical University Hospital Authority of a single piece of equipment with cost in excess of five million dollars, requires prior approval by the State Budget and Control Board.

The House amended, approved, and sent to the Senate H.3768. This comprehensive bill is a **DEPARTMENT OF REVENUE (DOR) "CLEAN-UP BILL," WHICH AMENDS NUMEROUS SECTIONS OF THE TAX CODE**. Provisions of the bill include, but are not limited to: provides protection from lawsuits to third parties, such as banks, which remit funds to DOR as a result of a levy; puts into permanent law language from the budget allowing for a 20% collection assistance fee which DOR may collect for overdue tax debts, with the revenue from this fee directed to the DOR South Carolina Business One Stop program; allows a sales tax exemption for prescription and over-the-counter medicines and medical supplies sold to a health care clinic that provides free medical and dental care to its patients (consistent with language in the budget); conforms the State Tax Code to the Internal Revenue Code, as amended through 2004.

The House amended, approved, and sent to the Senate H.3767. This bill also includes **NUMEROUS REVISIONS AND TECHNICAL CHANGES TO SOUTH CAROLINA TAXATION PROVISIONS** including, but not limited to: authorizing tax preparers to sign returns electronically; including amounts attributable to lottery and bingo winnings as taxable income reportable by nonresidents; amending provisions regarding job development credits by providing that the county designation is effective as of the date the application for credits is received in the Office of the Coordinating Council, rather than the date the preliminary revitalization agreement is entered into; amending provisions regarding the Department of Revenue's power to summon a person by providing that an Administrative Law Judge hold a contempt hearing on failure to comply with a summons; and amending provisions relating to sanctions against a person authorized to represent a taxpayer administratively, by including a monetary penalty.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

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The Agriculture, Natural Resources and Environmental Affairs Committee met on Monday, April 18, 2005.

**H.3726, "CHANDLER'S LAW,"** received a favorable with amendment report from the full committee. This legislation enacts the "**ALL-TERRAIN VEHICLE SAFETY ACT.**" Among other things, this bill provides that a person 16 years of age or younger may not operate an all-terrain vehicle (ATV) within this State unless the person: (1) has successfully completed an ATV safety education course provided by or approved by the Department of Natural Resources (DNR), and has been issued a safety certificate; or (2) is operating the ATV as part of a prescribed ATV safety education, training, and skills program and is under the direct supervision of a certified ATV safety instructor.

The bill further provides that a person 16 years of age or younger may not operate, ride, or otherwise be propelled on an ATV within this State unless the person wears a safety helmet and eye protection meeting United States Department of Transportation standards for motorcycles.

Under the bill, ATVs are exempt from ad valorem personal property taxes beginning January 1, 2005.

The restrictions in this legislation apply to operation of an ATV's on those lands open to the public.

Under the bill, it is unlawful to operate an ATV except in compliance with the local regulations and restrictions for an ATV operation. The bill requires a person 16 years of age or younger must be accompanied by an adult.

The bill further provides that it is unlawful to operate an ATV between one-half hour after sunset to one-half hour before sunrise unless it is equipped with operational headlights, and they are on.

Under the bill, it is unlawful to cross an unbridged stream except at a designated ford or crossing. Riding in any water bodies or watercourses is unlawful.

The bill requires that an ATV have an effective muffler system in good working condition; a United States Department of Agriculture Forest Service approved spark arrester in good working condition, and a brake system in good operating condition.

Under this bill, it is unlawful to operate an ATV while under the influence of alcohol or any controlled substance. The bill provides that it is unlawful to operate an ATV in a negligent or reckless manner. Also, it is unlawful to operate an ATV in a manner that damages flora or fauna, roads, trails, firebreaks, signs, gates, guardrails, bridges, fencing, or other public property.

The bill provides that no governmental entity and no property owner is liable for injuries or damage resulting from an ATV operation on lands open to the public for an ATV operation. Under this legislation, the State is absolutely immune from liability for any injury or damage as a result of operating an ATV on any lands at any time.

Violations of this legislation, unless otherwise specified, are misdemeanors punishable by a fine of not less than \$50 dollars nor more than \$200 dollars.



**H.3827**, pertaining to **COASTAL TIDELANDS AND WETLANDS**, received a favorable with amendment report. This bill relates to the authority of the Department of Health and Environmental Control to permit or deny alteration or utilization within coastal tidelands and wetlands areas designated as critical areas.

Under this bill, a survey delineating coastal waters or wetlands must include in bold type the following statement: "The area shown on this plat is a representation of department permit authority on the subject property. Critical areas by their nature are dynamic and subject to change over time. By delineating the permit authority of the department, the department in no way waives its right to assert permit jurisdiction at any time in any critical area on the subject property, whether shown hereon or not."

Current law provides that a critical area line established expires after three years from the department date on the survey; this bill increases that time frame from three years to five years. The bill also provides an exception for eroding coastal stream banks where it can be expected that the line will move due to the meandering of the stream before the expiration of the five- year time limit and where manmade alterations change the critical area line.

The full committee adjourned debate on **S.291**, a bill pertaining to **STATEWIDE LIFETIME HUNTING AND FISHING LICENSES**.

The full committee gave a favorable with amendment report to **H.3235**. This bill relates to **DROUGHT RESPONSE AND THE CURTAILMENT OF NONESSENTIAL WATER USE DURING SEVERE OR EXTREME DROUGHT**. Under this bill, certain agricultural purposes are considered essential water use and are exempt from mandatory curtailment of nonessential water uses. The bill further provides that water used for human health and safety has the highest priority in the essential water category.

**H.3240**, relating to the **GRAIN DEALERS GUARANTY FUND**, received a favorable with amendment report from the full committee. Current law authorized the Insurance Reserve Fund of the State Budget and Control Board to lend an amount up to four million two hundred thousand dollars on a one-time basis to the South Carolina Department of Agriculture for the use of the Grain Dealers Guaranty Fund. This bill provides that when all monies received from the Insurance Reserve Fund or State General Fund have been paid, the rate of assessment shall drop from two cents each bushel to one cent each bushel. This bill also creates a committee to study the grain dealers and grain producers guaranty funds; the committee must report to the General Assembly on steps necessary to make the funds more efficient and equitable.

The full committee gave a favorable with amendment report to **H.3615**. This bill relates to the **PRACTICE OF VETERINARY MEDICINE**, so as to conform current law to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The bill provides for the licensure and regulation of veterinarians and veterinary technicians including, but not limited to the following: establishing an investigative review committee, revising procedures for conducting hearings, providing for licensure by endorsement, authorizing student preceptor programs, providing procedures for veterinarians if an animal is abandoned in their custody, providing for a lien on an animal when payment for care is not made, and

establishing certain standards for emergency veterinary care facilities and mobile veterinary facilities.

## EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported favorable on **S.102**, a bill which provides that the special **PURPLE HEART LICENSE PLATES FOR MOTOR VEHICLES MAY ALSO BE ISSUED FOR USE ON MOTORCYCLES**.

The Committee reported favorable on **S.405**, a bill which authorizes and provides for the **CREATION AND ISSUANCE OF FRATERNAL ORDER OF POLICE SPECIAL LICENSE PLATES**. After the regular motor vehicle license fee has been placed in a special account to be used by the Department of Motor Vehicles, any funds remaining from sale of the plates must be distributed to the State Lodge of the Fraternal Order of Police to be used to support the families of officers killed in the line of duty.

The Committee reported favorable with amendment on **S.418**, a bill which authorizes and provides for the **CREATION AND ISSUANCE OF "ARTS AWARENESS" SPECIAL LICENSE PLATES**. As reported by the Committee, these special plates would be sold for a biennial fee of seventy dollars, in addition to the regular license plate fee. After deducting funds to defray the costs of producing and administering the plates, remaining funds from sale of the plates would go to the South Carolina Arts Commission and be used to support activities that "build a thriving arts environment in South Carolina."

The Committee reported favorable with amendment on **H.3340**, a joint resolution authorizing public institutions of higher learning to develop energy savings plans which over an average ten-year period will realize tangible savings in utilities cost more than the cost of the funds expended to make the improvements. The bill also encourages institutions implementing such plans to use the South Carolina Energy Office's ConserFund Program and the Master Lease Plan of the State Treasurer's Office.

## JUDICIARY

The Judiciary Committee met on Monday, April 18, 2005.

**H.3650** received a favorable report from the full committee. This bill relates to the **BROWNFIELDS VOLUNTARY CLEANUP PROGRAM AND CONTRACT REQUIREMENTS ENTERED INTO BY OR ON BEHALF OF A NONRESPONSIBLE PARTY**. Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The bill provides that a nonresponsible party is not liable to any third-party for contribution, equitable relief, or claims for damages arising from a release of contaminants which is the subject of a response action included in the nonresponsible party voluntary cleanup contract. This limitation of liability commences on the date of execution of the nonresponsible party voluntary cleanup contract by the Department of Health and Environmental Control; however, this limitation must be withdrawn automatically if the nonresponsible party voluntary cleanup contract is lawfully

terminated by any party. This limitation applies only to: (1) the parties to the nonresponsible party voluntary cleanup contract and to the nonresponsible party's lenders, signatories, parents, subsidiaries, and successors; and (2) 'existing contamination', as defined in the nonresponsible party voluntary cleanup contract. This limitation of liability does not apply to any release caused by or attributable to the nonresponsible party or its lenders, signatories, parents, subsidiaries, or successors.

The full committee tabled **H.3307**, which creates a **CIVIL CAUSE OF ACTION FOR THEFT OF HEALTH CARE SERVICES**. Prior to adjournment, a motion was noted to reconsider whereby the full committee adjourned debate on the bill.

**H.3613**, the "**COMMON SENSE CONSUMPTION ACT**," received a favorable with amendment report. Under this legislation, a manufacturer, packer, distributor, carrier, holder, marketer, seller, or an association of one or more of these entities of a food or nonalcoholic beverage intended for human consumption is not subject to civil liability in an action brought by a party based on a person's purchase or consumption of food or nonalcoholic beverages in a case when liability is based on weight gain, obesity, or a health condition associated with weight gain or obesity resulting from the person's long-term purchase or consumption of food or nonalcoholic beverages. In an action to dismiss one or more claims pursuant to the provisions of this legislation, all discovery and other proceedings are stayed while a motion to dismiss is pending. The provisions of this legislation apply only when a manufacturer, packer, distributor, carrier, holder, seller, or marketer of a food establishes it has complied with the federal content and nutrition labeling disclosure provisions so that a consumer has ready access to this information and may be informed about the content and nutritional value of the food prior to consumption. A retail establishment that serves food and nonalcoholic beverages complies with this requirement by making information available upon request to the consumer.

The Judiciary Committee adjourned debate on **H.3881**, the "**SOUTH CAROLINA PRIORITY INVESTMENT ACT**."

**H.3344**, pertaining to **COCKFIGHTING**, received a favorable with amendment report from the full committee. Under this bill, it is a felony for any person to engage in or be present at cockfighting or game fowl fighting or testing and any person found guilty must be fined not more than \$5,000 dollars or imprisoned for not more than five years. This bill allows for and outlines procedures for the forfeiture of property, monies, negotiable instruments, securities and other things of value when a person violates these provisions. The bill does create an exception for the innocent owner of property subject to forfeiture.

**H.3060** received a favorable with amendment report from the full committee. This bill provides that a person who knowingly subjects another person to forced labor or services, or recruits, entices, harbors, transports, provides, or obtains by any means another person knowing that the person will be subjected to forced labor or services, or aid, abets, attempts, or conspires to do any of the above acts is guilty of a **FELONY KNOWN AS TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES** and, upon conviction, must be imprisoned for not more than 15 years. Under the bill the term, 'forced labor or services' means any type of labor or services performed or provided by a person rendered through another person's exertion of physical, financial, or other means of control over the person providing the labor or services.

The full committee tabled **H.3143**, the “**PROTECT OUR WOMEN IN EVERY RELATIONSHIP (POWER) ACT.**”

The Judiciary Committee adjourned debate on all bills to be considered in the report from the Election Laws Subcommittee. Debate was adjourned on the following bills:

- **H.3166** relating to **REPLACEMENT CANDIDATES**
- **H.3721** pertaining to the **SUBSTITUTION OF A CANDIDATE WHERE THE PARTY NOMINEE DIES, BECOMES DISQUALIFIED, OR RESIGNS**
- **H.3831** relating to **ALTERNATIVE POLLING PLACES IN CASE OF AN EMERGENCY**
- **H.3414** pertaining to **ABSENTEE BALLOTS**

**H.3224** received a favorable with amendment report from the Judiciary Committee. Under this bill, any document or writing containing the following provisions is deemed to comply with the requirements for a **HEALTH CARE POWER OF ATTORNEY**: (1) the name and address of the person who is authorized to make health-care related decisions if the principal becomes mentally incompetent; (2) the types of health-care related decisions that the health care agent is authorized to make; (3) the signature of the principal; (4) the signature of at least two persons who witnessed the principal's signature; and, (5) the attestation of a notary public.

Additionally, any document that meets the requirements listed above and also provides expressions of the principal's intentions or wishes with respect to the following health care issues authorizes the health care agent to act in accordance with these provisions: (1) organ donations; (2) life-sustaining treatment; (3) tube feeding; (4) other kinds of medical treatment that the principal wishes to have or not to have; (5) comfort and treatment issues; (6) provisions for interment or disposal of the body after death; and, (7) any statements that the principal may wish to have communicated on his behalf.

**H.3777** received a favorable with amendment report from the full committee. This bill provides that it is **UNLAWFUL FOR A PERSON TO ENGAGE IN THE ACTIVITY OF GEOCACHING OR LETTERBOXING IN A CEMETERY, ARCHEOLOGICAL SITES, OR ON THE HISTORIC PROPERTIES OF THE STATE, THE SOUTH CAROLINA INVENTORY OF HISTORIC PROPERTIES, OR THE AFRICAN-AMERICAN NATIONAL REGISTER SITES** without the express written consent of the owner or state agency which oversees these properties or sites. As used in the bill, ‘geocaching’ means the activity of participants using a global positioning system device to locate the geocache or another specific location. ‘Geocache’ means the container that serves the purpose of providing a place to store small items or logbooks which are intentionally placed by their owners. ‘Letterboxing’ means an activity similar to geocaching in which the participant takes directions and uses those directions to find a hidden object. Violations are misdemeanors punishable by a fine of not more than \$100 dollars or imprisonment for not more than 30 days.

**H.3621**, a **PROPOSED CONSTITUTIONAL AMENDMENT TO ALLOW CERTAIN CHARITABLE ORGANIZATIONS TO CONDUCT RAFFLES**, received a favorable with amendment report on April 12, 2005. The amendment was not available in time to be included in last week's *Legislative Update*. This joint resolution proposes to submit to the electors at the next general election whether or not a raffle conducted by certain charitable organizations is a lottery prohibited by the State Constitution. All raffle proceeds, except for the costs of the prizes and the costs of printing tickets, would have to be used exclusively for the organization's tax-exempt purposes. A charitable organization would be limited to holding a raffle not more than four times in a calendar year. For purposes of this provision, all raffles occurring on one date are defined as one raffle.

The full committee gave a favorable with amendment report to **H.3222**, "**AUTUMN'S LAW**," on April 12, 2005. This bill pertains to the **ADOPTION AND TERMINATION OF PARENTAL RIGHTS WHEN THE CHILD IS CONCEIVED AS A RESULT OF CRIMINAL SEXUAL CONDUCT OR INCEST**. The amendment was not available in time to be included in last week's *Legislative Update*.

Under the bill, consent or relinquishment for adoption is not required when the biological parent of a child conceived as a result of that parent's criminal sexual conduct or incest as found by a court of competent jurisdiction unless, with respect to a conviction for criminal sexual conduct, the sentencing court made a specific finding on the record that the conviction resulted from consensual sexual conduct where the victim was younger than the actor.

If a person is convicted or pleads guilty or no contest to a criminal sexual conduct with a minor offense or a similar offense under laws of another jurisdiction, that person's parental rights to any child conceived as a result of the conduct underlying the conviction or pleas are automatically terminated upon conviction or entry of a plea unless the sentencing court made a specific finding on the record that the conviction resulted from consensual sexual conduct where the victim was younger than the actor. If the biological parent's conviction is reversed on appeal, the bill outlines a procedure for the biological parent to petition the court to restore his or her parental rights.

## LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce, and Industry Committee met on April 19 and reported out several bills.

The Committee gave a report of favorable with amendments on **S.581**, the "**BOILER SAFETY ACT**". Under the legislation, the Department of Labor, Licensing and Regulation is charged with promulgating regulations for the safe installation and inspection of boilers in this state. All new installations shall conform to generally accepted nationwide engineering standards (conformity with the most recent edition of the Boiler and Pressure Vessel Code or the ASME Code shall be accepted as conformity). The department shall promulgate regulations for installation and inspection of boilers that were in use in this State prior to the implementation of the statewide building code. The regulations must be based upon, and at all times follow, generally accepted nationwide engineering standards and practices and may adopt applicable

sections of the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors. Certain boilers are exempted from regulation under this legislation. Under the legislation, the Director of the Department of Labor, Licensing and Regulation shall appoint a chief boiler administrator. The legislation establishes certification requirements for boiler inspectors. The bill provides for boiler inspection timeframes, criteria, and reporting requirements. Failure to comply in a timely manner after written notice by the department of a violation subjects the violator to a penalty of up to one hundred dollars per day. A fee not to exceed fifty dollars per facility or per certificate filed with the department may be assessed, collected, and adjusted by the Department of Labor, Licensing and Regulation.

The Committee gave a report of favorable with amendments on **H.3383**, the “**FIRE PROTECTION SPRINKLER SYSTEMS ACT.**” The South Carolina Contractors’ Licensing Board is charged with administering the Fire Protection Sprinkler Systems Act to protect the health, safety, and welfare of the public through regulation of the fire sprinkler industry. The legislation establishes procedures for the licensure of fire sprinkler contractors by the Department of Labor, Licensing and Regulation to engage in the planning, sale, installation, repair, alteration, addition, maintenance, or inspection of fire sprinkler systems. The procedures include requirements for initial licensure, license renewal, fees, and grounds and sanctions for misconduct. A fire sprinkler contractor may not engage in fire sprinkler system work unless it has in its employment a primary qualifying party who has been designated by the licensee as the principle individual responsible for directing or reviewing fire sprinkler contractor work. A primary qualifying party is a full-time employee of a fire sprinkler contractor who holds a valid National Institute for Certification in Engineering Technologies (NICET) Level III or IV Technician Certificate in ‘Fire Protection Engineering Technology Automatic Sprinkler System Layout’ and who has been issued a qualifying party certificate by the board to qualify an entity as a fire sprinkler contractor. A qualifying party is an individual who has received a NICET Level III or IV Technician Certification in “Fire Protection Engineering Technology Automatic Sprinkler System Layout” and who is an employee of a fire sprinkler contractor who has been issued a qualifying party certificate. The legislation establishes provisions for grandfathering in certain individuals as primary qualifying parties for fire sprinkler contractors. Licensees may be held accountable by the board for improper work. The legislation provides for disciplinary actions for misconduct as well as a civil penalty of up to five thousand dollars for each violation.

The Committee gave a report of favorable with amendments on **H.3840**, a bill that **PROHIBITS COMMUNICATIONS SERVICE PROVIDERS FOR ENTERING INTO CERTAIN EXCLUSIVE ARRANGEMENTS.** This bill provides that no communications service provider or parent, subsidiary, or affiliate of such a provider may enter into any contract or agreement that requires another person to restrict or limit the ability of any other communications service provider from obtaining easements or rights-of-way for the installation of facilities or equipment to provide communications services in this state or otherwise deny or restrict access to the real property by any other communications service provider. The bill prohibits the offering of grants, incentives, or rewards to an owner of real property or the owner’s agent that are contingent upon the provision of communications service on the premises by a single communications service provider. All contracts, agreements, or arrangements in violation of these provisions that are made on or after the effective date of this legislation are void and unenforceable. A communications service provider who violates this legislation is subject to a monetary penalty of not less than twenty-five dollars nor more than five hundred dollars for each

offense and reasonable expenses including attorneys' fees. Each day that an unlawful contract, agreement, or arrangement remains in effect constitutes a separate violation. The bill also provides that no communications service provider shall be obligated to provide any communications service to the occupants of a property if an owner or developer of any multi-tenant business or residential property (including apartments, condominiums, subdivisions, office buildings, or office parks) either: (1) permits only one provider of communications service to install its facilities or equipment during the construction phase of the property; (2) accepts or agrees to accept incentives or rewards from a provider of communications service to the owner, developer, or occupants of the property that are contingent upon the provision of communications service by that provider to the exclusion of other providers; (3) collects from the occupants of the property charges for the provision of communications service to the occupants in any manner, including through rent, fees, or dues; or (4) enters into an agreement with a communications service provider that violates this legislation's prohibitions on exclusive access to property.

The Committee gave a report of favorable with amendments on H.3883, a bill regarding the **SALE OF A USED MANUFACTURED HOME IN CONJUNCTION WITH THE SALE OF UNDERLYING REAL ESTATE**. This bill exempts from the manufactured housing license requirement a licensed real estate salesman or licensed real estate broker who negotiates or attempts to negotiate the sale or other disposition of a used manufactured or mobile home in conjunction with the sale or other disposition of the underlying real estate.

The Committee gave a report of favorable with amendments on H.3853. This bill expands **QUALIFICATIONS FOR LICENSURE AS A REAL ESTATE BROKER, SALESPERSON, OR PROPERTY MANAGER** by providing for criminal record reports and the provision of evidence to satisfy the commission that applicant possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. The commission must notify an applicant who has an unsatisfactory examination and investigation. The applicant has sixty days from the date of notification to respond.

The Committee gave a favorable report on H.3479. This bill revises criteria for issuance of **ASBESTOS ABATEMENT** licenses by altering the definitions of "asbestos abatement entity" and "asbestos project". The bill eliminates existing licensure fee provisions and, instead, authorizes the Department of Health and Environmental Control to establish such fees in regulation that are sufficient to cover reasonable costs of administering the asbestos program. The bill increases the maximum civil penalty for violations from one thousand dollars to ten thousand dollars.

The Committee gave H.3525 a majority report of favorable with amendments and a minority report of unfavorable. This bill establishes **CONDITIONS UNDER WHICH MUNICIPALITIES ARE TO EXTEND SEWER AND WATER SERVICES**. The bill provides that, upon the written request of a property owner requesting the municipality to extend water or sewer service, the municipality shall provide the service and levy an assessment against the property of the owner requesting the service for the costs of the service. The property owner shall agree to pay the costs, including the costs of additional capacity when necessary, either by (1) paying the costs before the municipality begins construction or (2) insuring the costs in the form of a performance

bond before the municipality begins construction. This legislation applies only to property located within the corporate limits of a municipality.

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The House Medical, Military, Public and Municipal Affairs Committee met on Monday, April 18, 2005.

The full committee voted to adjourn debate until January 2006 on **H.3254**, the **"REGISTERED SURGICAL TECHNOLOGIST AND LICENSED SURGICAL ASSISTANT PRACTICE ACT."**

**H.3405** received a favorable with amendment report from the full committee. This bill expands the scope of **PRACTICE OF PODIATRY** to include, in addition to the foot, the treatment of the treatment of the ankle, and the parts of the leg below the knee that are involved with the function of the foot and ankle. It includes treatment of local manifestations of systemic diseases as they appear on the foot and ankle. Under the bill, the definition of the term "podiatry" has been revised so that it is clear that a podiatrist cannot perform surgery related to the knee.

Currently podiatrists are prohibited from doing any amputations. The bill permits podiatrists to amputate toes and parts of the foot but does not allow amputation of the foot or leg in its entirety.

The bill allows a podiatrist to do surgery on parts of the soft tissues of the lower leg that relate to the foot and ankle. The bill specifies that ankle and leg surgery must be performed in an accredited hospital or ambulatory surgical center and only podiatrists with appropriate surgical credentials may perform these surgeries. The bill also revises the definition of the term "podiatrist" to delete the provision indicating a podiatrist is considered a physician and surgeon of the foot and ankle.

**H.3604** received a favorable with amendment report from the full committee. This bill amends the **PHYSICAL THERAPY PRACTICE ACT** by adding a section providing that nothing in the practice act may be construed to prohibit or restrict a physical therapist or a physical therapist assistant from any act authorized under the Provider Self-Referral Act. The Provider Self-Referral Act prohibits a health care provider from referring patients to facilities and services in which the provider has a financial interest in most cases unless certain disclosure conditions are met.

Under the bill, a physical therapist or a physical therapist assistant may work for a licensed health care facility that has a certificate of need from the Department of Health and Environmental Control.

The bill allows a physical therapist or a physical therapist assistant to be employed by a health care provider, if the provider already employed a physical therapist or physical therapist assistant as of April 15, 2005. Physical therapists and physical therapist assistants may continue to be employed by these providers until May 31, 2010.



The bill requires a health care provider to furnish a patient with a written disclosure form before a referral is made for physical therapy services in which the provider has a financial interest. A physical therapist may not accept a referral from an employer provider unless the disclosure is made. The bill requires the provider to give the patient a written disclosure form informing the patient of:

- (1) the existence of the investment interest;
- (2) the name and address of each applicable entity to which a referral is made in which the referring health care provider is an investor;
- (3) the patient's right to obtain physical therapy services at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor;
- (4) the names and addresses of at least two alternative sources of these services available to the patient;
- (5) a schedule of typical fees for items or services usually provided by the entity or, if impracticable because of the nature of the treatment, a written estimate specific to the patient.

The referring provider must obtain the patient's signature that the information in the disclosure form has been provided to the patient.

**H.3582** received a favorable report from the full committee. This bill updates the **CHILDHOOD LEAD POISONING PREVENTION AND CONTROL ACT** and makes technical changes to conform to Centers for Disease Control and Prevention (CDC) definitions and program standards as well as U.S. Environmental Protection Agency standards for lead based substances.

The bill also requires a laboratory doing business in this State to notify the Department of Health and Environmental Control (DHEC) of the results of any blood lead analyses conducted on children under six years old. The report must be made to DHEC within 30 days of the analysis.

In addition, the bill updates the procedures for the issuance and execution of an administrative warrant to investigate a property involving a lead poisoning case to be consistent with the way DHEC handles investigations in other areas.

This bill also provides, in addition to a penalty imposed by a magistrate for a misdemeanor violation, anyone who violates a provision of this article or a final determination or order of DHEC is subject to a civil penalty not to exceed \$1,000 dollars.

The provisions of this legislation are contingent upon the appropriation of state general funds or the availability of financial support from other sources to support the program. Currently, the CDC provides funding for most of DHEC's lead poisoning prevention efforts.

**H.3640**, relating to the **PREPARATION OF GROUND BEEF BY A FOOD-SERVICE PROVIDER**, received a favorable with amendment report from the full committee. The Department of Health and Environmental Control regulations require retail food establishments to cook ground beef and any food containing ground beef so that all parts of the food are heated to at least 155°F. This bill will allow a customer to order ground beef to be cooked to a lower temperature. The bill specifies a food service

provider will not be liable for any adverse affects for providing ground beef cooked less than 155°F, if it is at the request of the customer. The provider must notify the customer in advance of the possible health risk. The warning may be given in writing; as stated on the menu; or by visible sign warning.

**H.3832**, the “**LEWIS BLACKMAN HOSPITAL PATIENT SAFETY ACT**,” received a favorable report from the full committee. This bill requires each hospital staff member whose duties include the personal care or medical treatment of patients to wear badges clearly stating their name, their department and their job or trainee title. All clinical trainees, medical students, interns, and resident physicians must be explicitly identified on their badges. The identifying information must be clearly visible and must be stated in terms or abbreviations reasonably understandable to the average person.

Except in emergency admissions, a hospital is required to provide each patient with written information about the role of clinical trainees, medical students, interns, and resident physicians in patient care. The patient must be notified that the attending physician is the person responsible for the patient’s care in the hospital. The notification must state generally whether medical students, interns, or resident physicians may be participating in a patient’s care, making treatment decisions, or performing surgery.

If at any time a patient or the patient’s representative requests that a nurse call his or her attending physician, the nurse is required to place a call to inform the attending physician of the patient’s concerns. If the patient or his designee wants to speak to the attending physician, the nurse must provide the telephone number and assist in making the call.

Each hospital must provide a mechanism that the patient can use to get prompt assistance for urgent patient care concerns. A description of this mechanism must be included in the patient notification.

This legislation does not create a civil cause of action. However, the legislation must not be construed to preclude a claim that may have otherwise been asserted under common law or any other provision of law.

**H.3674**, a bill **AUTHORIZING THE SOUTH CAROLINA STATE BOARD OF DENTISTRY TO ISSUE LICENSES BY CREDENTIALS TO PRACTICE DENTISTRY**, received a favorable with amendment report from the full committee. This bill will allow, but not require, the Board of Dentistry to issue a license to an applicant from any state or territory of the United States, if the applicant is at least 21 and has graduated from a dental college approved by the board and:

1. Passed a state or regional clinical examination approved by the Board and an exam given in English on S.C. dental laws and regulations;
2. Holds a current unrestricted license to practice dentistry in another U.S. state or territory;
3. Has been actively practicing at least five years immediately preceding the application;
4. Completed seventy hours of continuing education over the preceding five years;
5. Has not been the subject of a final or pending license disciplinary action;
6. Has no felony convictions or other criminal convictions that would affect his or her ability to provide competent dental care;

7. Allows a record check with the National Practitioner Data Bank and verification of his or her Drug Enforcement Administration registration;
8. Agrees to a substance abuse test if requested by the board; and
9. Agrees, if requested by the board, to provide proof he or she has no physical or psychological impairment that would affect his or her ability to practice dentistry.

The board will be allowed to conduct examinations and interviews with an applicant to determine the applicant's fitness to practice dentistry in South Carolina. If the licensee from another state or territory does not establish an active practice within two years, the license will automatically be revoked.

**H.3513**, pertaining to **FIDELITY BONDS FOR COUNTY OFFICIALS**, received a favorable with amendment report. A fidelity bond is an "honesty bond" that would indemnify a county for loss due to embezzlement, larceny, or gross negligence by a county official or employee holding a position of trust.

Currently, bond requirements for county officials are found throughout the South Carolina Code of Laws. This bill would permit counties to purchase a fidelity bond covering all county officials who are statutorily required to be bonded and any other officials and or employees that a county may feel necessary. Currently, new individual bonds are required to be purchased anytime there is turnover because the bonds cover the individual person and not the position the person holds with the county. Blanket fidelity bonds cover county officials' positions rather than individuals and do not need to be repurchased each time there is turnover.

This bill also permits counties to bond county officials and employees for an amount higher than is currently statutorily required. There is nothing that currently prevents counties from doing this, however this bill clarifies that counties are able to do so.

The full committee gave a favorable report to **S.509**. This bill requires a person to be a licensed barber or cosmetologist or a registered hair braider to do **HAIR BRAIDING**. It defines "hair braiding" as the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts.

In order to become a hair braider registered by the Barber Board an applicant must complete a one day, six hour board-approved hair braiding course, pass an examination, and pay a \$25 registration fee. Registration is valid for two years and can be renewed by paying the renewal fee.

Anyone practicing hair braiding on the legislation's effective date has one year to complete the education, examination, and registration requirements.

The bill establishes the content of the hair braiding course and requires all combs and implements used to braid hair to be disposable or to be sanitized in an approved disinfectant.

**H.3318** received a favorable with amendment report from the full committee. The bill allows the **BOARD OF COSMETOLOGY TO APPROVE CONTINUING EDUCATION COURSES TAKEN OUT OF STATE**. In addition to cosmetologists, the board licenses nail technicians, estheticians, and cosmetology school instructors.

## WAYS AND MEANS

The Ways and Means Committee met on Monday, April 18, and considered a number of bills.

The Committee reported majority favorable with amendment, minority unfavorable on **H.3652**, introduced as the “Put Parents in Charge Act.” As reported by the Committee, this bill establishes and provides for the “**PUT PARENTS IN CHARGE PILOT PROGRAM**,” to be implemented in certain school districts to “restore parental control of education, improve public school performance, and expand educational opportunities for children of families in poverty.”

As reported by the Committee, the bill provides for a pilot program in each of two school districts to be chosen by the Department of Education, with one district coming from the top 25% in *per capita* income and one district coming from the bottom 25% in *per capita* income. The pilot program will last until the year 2017.

### Tuition Tax Credits

The bill provides tax credits for tuition paid by the family of a “qualifying student” to attend an independent school, a public school outside of the student’s assigned district, or expenses related to home schooling. In order for a student to qualify, the parent or guardian’s taxable income cannot exceed \$75,000. This limit is increased by \$5,000 for each exemption over two claimed by a family.

The bill provides that if a student wishes to transfer to a different school district, the board of trustees for the district to which the student wishes to transfer shall approve or disapprove the transfer. If the transfer is approved, the board may estimate the tuition to charge the transferring student.

The bill provides that allowable expenses related to home schooling include: expenses for tutors, textbooks, school supplies, fees for membership in a home schooling association, and academic lessons. Expenses for tutors or academic lessons may be included in tuition only if the person providing the tutoring or academic lessons is not the parent or guardian, and meets the standards for that student’s home school program. Also, “tuition” does not include athletic fees.

The bill provides that the tax credit may be claimed against a person’s liability for income tax, corporate license fees, or insurance premium taxes. The credit claimed cannot exceed the amount of tuition paid. The credits are not refundable. If the credit exceeds the taxpayer’s total tax liability, the taxpayer does not receive a cash refund.

The bill provides that the amount of the credit will be the lesser of 80% of the actual tuition paid or 51% of the average state per pupil expenditure for most students. For students qualifying for free or reduced lunches, the credit will be the lesser of 100% of the actual tuition paid or 64% of the average state per pupil expenditure. Students with disabilities are eligible for an increased credit. The credit still may not exceed 80% of the actual tuition paid for most students or 100% of the actual tuition paid for students

who qualify for free or reduced lunches, but students with disabilities are eligible for a credit of 71% to 160% of the average per pupil expenditure, depending on the disability.

Credits claimed but not used (i.e., if the taxpayer's total tax liability was less than the credit) may be carried forward up to 5 years.

### **Scholarship Tax Credits**

The bill provides a tax credit for contributions to a scholarship granting organization (SGO) that will be used to pay for a qualifying student to attend an independent school, a public school outside of the student's assigned district, or for expenses related to home schooling. Donations to SGO's are limited to \$10,000 per individual. In order for a student to receive a scholarship from the scholarship granting organization, the parent or guardian's taxable income cannot exceed \$75,000. This limit is increased by \$5,000 for each exemption over two claimed by a family. Students taught at home are eligible to receive scholarships. Limitations on the amount that these items may be reduced by another credit must be computed after the credit allowed by this provision is used to reduce the person's tax or license fee liability.

The credit may be claimed only by the person who made the contribution, except in the case of a controlled group of corporations. In the case of a controlled group of corporations, the credit may be claimed by the one who actually made the contribution and another member of that controlled group of corporations.

A credit claimed but not used in a taxable year may be carried forward up to five years from the year the credit is earned by the taxpayer. Credits carried forward must be used in the order earned.

The amount of the scholarship will be the lesser of 80% of the actual tuition paid or 51% of the average state per pupil expenditure for most students.

For students qualifying for free or reduced lunches, the scholarship will be the lesser of 100% of the actual tuition paid or 64% of the average state per pupil expenditure.

Students with disabilities are eligible for an increased scholarship. The scholarship still may not exceed 80% of the actual tuition paid for most students or 100% of the actual tuition paid for students who qualify for free or reduced lunches, but students with disabilities are eligible for a scholarship of 71% to 160% of the average per pupil expenditure, depending on the disability.

These SGOs are required to register with the Department of Revenue and comply with certain reporting requirements and other regulations.

The bill requires that a scholarship granting organization that receives or expects to receive \$50,000 or more in contributions in a calendar year shall file and maintain with the Department of Revenue a surety bond in favor of the State. This bond will be structured to pay a person who sustains a loss due to failure by the SGO to comply with the provisions of this act.

Of the contributions claimed for the credit, only 5% may be used for administrative expenses. The rest must be used only to provide scholarships.

## Accountability

The bill requires that a report be prepared by the State Budget and Control Board each year showing the impact of these tax credits and scholarships on public school enrollment and state and local funding for school districts.

The bill also requires the State Budget and Control Board to provide a long-term evaluation which must take place over a minimum twelve-year period, and which must track and assess parent satisfaction, student satisfaction, and academic performance for both participants in this program and public school students. It will also track and assess the impact of this act on school capacity, availability, and quality. Also, by January 31 of each year, the Budget and Control Board is required to provide each member of the General Assembly with an interim report on the results of this study. Once the study is completed, a copy of the finished study will be provided to each member of the General Assembly.

The Committee reported favorable with amendment on **H.3885**. As amended by the Committee, this bill **OFFERS INCENTIVES TO MANUFACTURING, WAREHOUSING, AND DISTRIBUTION COMPANIES WHO INCREASE THEIR BASE PORT CARGO BY A MINIMUM OF 5% OVER 2005 TOTALS**. The bill allows companies to take one of two tax credits: (1) an additional \$500 tax credit for each new job created or (2) an additional 2% investment tax credit for investments in new facilities, plant, and equipment. In addition, for every incremental 2.5% over the minimum 5%, companies may take either (1) an additional \$250 tax credit for each new job created, up to a maximum of \$1,500, or (2) an additional 1% investment tax credit, up to a maximum of 6%.

In order to be eligible for the credit, base year port cargo volume must be at least 75 tons of noncontainerized cargo or ten loaded TEUs (twenty-foot equivalent units). Companies may only take one of the credits. These credits are capped at \$8 million with an additional \$2 million discretionary for the Coordinating Council.

The Committee reported favorable on **H.3932**. This bill revises certain definitions included in the State General Obligation Economic Development Bond Act and provides further for the manner in which these bonds shall be issued. The bill **ADDRESSES THE STATE SUPREME COURT'S DECISION WHICH HELD THAT CERTAIN PROVISIONS OF ACT 187 OF 2004 (LIFE SCIENCES ACT, ET AL) WERE UNCONSTITUTIONAL BECAUSE OF A MULTIPLICITY OF SUBJECTS IN THE SAME ENACTMENT. THE BILL INCLUDES A DETERMINATION BY THE GENERAL ASSEMBLY TO REENACT CERTAIN OF THESE PROVISIONS WITH AMENDMENT IN PARTICULAR CASES IN A SEPARATE ACT**, including initiatives which have the commonality of being funded from the same funding source relating to the issuance of general obligation bonds for stated public purposes authorized by the South Carolina Constitution. The bill includes a finding by the General Assembly that the funding of these projects with these bonds serves a valid public purpose and benefits South Carolina with subsequent economic and employment benefits.

The Committee reported favorable with amendment on **H.3296**, a bill which **REALLOCATES TO THE DEPARTMENT OF TRANSPORTATION (DOT) STATE NON-FEDERAL AID HIGHWAY FUND, CERTAIN FINES AND FEES** including but not limited to fines and fees related to: use of dyed motor vehicle fuels; petroleum products;

driver's licenses, permits, and special identification cards; and motor vehicle registration and licensing. The bill eliminates, over a five year period, funding provided to the South Carolina Coordinating Council for Economic Development from the gasoline user fee, but phases in a new funding source to compensate for this loss of revenue. The bill provides that DOT operational revenues must be placed in either the State Highway Fund or the State Non-Federal Aid Highway Fund (currently this revenue may only be placed in the State Highway Fund), and the bill provides for a declining schedule of payments for DOT's cost of administration.

The Committee reported favorable with amendment on **H.3523**, regarding the **PRISON INDUSTRY PROGRAM**. As reported by the Committee, this bill requires the Department of Corrections, in conjunction with the Department of Commerce, to develop and maintain a marketing plan to attract private sector businesses for the employment of inmates through the prison industries program. The marketing plan must include, but not be limited to, provisions of public advertising to establish a prison-based industry and a certification by the Department of Commerce that each new contract does not create an unfair competitive wage disadvantage to the local economy. The bill requires that the marketing plan and procedures for negotiating new contracts and contract renewals be approved by the Budget and Control Board prior to implementation. The bill requires the Department of Corrections to submit annual audit reports of the program to the General Assembly. The bill also provides for deductions from inmate wages for victim restitution, the South Carolina Victim's Compensation Fund, and the Department of Corrections to defray costs of the inmate's room and board.

The Committee reported favorable on **H.3725**. This bill **EXEMPTS FROM ACROSS THE BOARD REDUCTIONS AMOUNTS APPROPRIATED IN THE ANNUAL BUDGET AS SALARY SUPPLEMENTS FOR COUNTY CLERKS OF COURT, PROBATE JUDGES, SHERIFFS, REGISTRARS OF DEEDS, COUNTY AUDITORS, COUNTY TREASURERS, AND COUNTY CORONERS**. The bill also adds county coroners to the list of county officers to whom the General Assembly shall appropriate annually salary supplements.

The Committee reported favorable with amendment on **H.3227**. As reported by the Committee, this bill **AUTHORIZES AND PROVIDES FOR THE IMPOSITION, BY COUNTYWIDE REFERENDUM, OF A SPECIAL ONE PERCENT SALES AND USE TAX WITHIN A COUNTY** for not more than seven years with the revenue of the tax used to defray the costs of capital improvements of the school districts within the county.

The bill provides that if a school district receiving this revenue has no outstanding debt incurred for capital improvements or immediate needs for capital improvements, the proceeds of the tax must be maintained in a separate reserve fund in the county treasury as provided in the bill.

The bill prohibits from receiving any of this revenue a school district which is acquiring new schools and/or renovating existing schools by means of a BEST Corporation plan, and a school which is receiving revenue from this tax may not acquire new schools and/or renovate existing schools by means of a BEST Corporation plan.

The Committee reported favorable with amendment on **H.3350**. As reported by the Committee, this bill **AUTHORIZES A MUNICIPAL GOVERNING BODY TO IMPOSE A ONE PERCENT SALES AND USE TAX BY ORDINANCE, SUBJECT TO A**

**REFERENDUM, FOR SPECIFIED PURPOSE(S) AND FOR A LIMITED AMOUNT OF TIME TO COLLECT A LIMITED AMOUNT OF MONEY.**

Purposes for which proceeds from such a tax may be used include highways, roads, streets and bridges; administration buildings, civic centers, hospitals, emergency medical facilities, police or fire stations, jails, correctional or detention facilities; cultural, recreational, or historic facilities; water, sewer, or water and sewer projects; flood control projects and storm water management facilities; land acquisition for recreational needs, preservation of historic sites, protection of natural resources, and public facilities; beach access and renourishment; joint projects of cities, counties, special purpose districts, school districts, or any combination of those entities for the above-referenced projects; any combination of the projects referenced above. The bill limits to a maximum of seven years, the time that the tax may be imposed.

The bill requires that certain information be included on the enacting ordinance containing the ballot question, including but not limited to the purpose for which the taxes will be used; the maximum time for which the tax may be imposed; the maximum cost of the project, and the maximum amount of net proceeds to be raised by the tax.

The bill requires that when the tax is imposed for more than one purpose, the enacting ordinance must set forth the priority in which net proceeds will be expended. The bill delineates procedures which must be followed upon receipt of the enacting ordinance, preceding and following the referendum.

The Committee reported favorable on H.3906. This bill provides that, in addition to current **QUALIFICATIONS REQUIRED FOR A PALMETTO FELLOWS SCHOLARSHIP**, a student shall have either of the following:

- a minimum score of 1200 on the SAT or an equivalent ACT score; a cumulative 3.5 grade point ratio at the end of the junior year; and



rank in the top six percent of the class at the end of the sophomore or junior year or at the end of the first semester of the senior year, as provided in the bill;

**OR**

- A minimum score of 1400 on the SAT or an equivalent ACT score; and a cumulative 4.0 grade point ratio at the end of the junior year.

The bill also provides that a student who met the initial eligibility requirements for the Palmetto Fellows Scholarship as a high school senior and has met the continuing eligibility requirements shall receive the award. Also, a student who received this scholarship as a high school senior, but who declined the award may reapply for the annual scholarship if he meets the initial and continuing academic eligibility requirements, if he transfers to a qualifying in-state institution. The bill requires that the number of semesters or years a student attends an out-of-state institution must be deducted from the number of semesters or academic years a student is eligible for the scholarship.

The Committee reported favorable with amendment on **H.3673**. This bill revises numerous provisions regarding **PUBLIC INSTITUTIONS OF HIGHER LEARNING**. As reported by the Committee, the bill:

- Allows public institutions of higher learning to spend federal and other nonstate revenue to provide lump-sum bonuses, according to the university's guidelines and with proper documentation;
- Allows public institutions of higher learning to offer education fee waivers to no more than four percent of the undergraduate student body;
- Allows public institutions of higher learning to establish research grant positions funded by grant money without regard to authorized FTE positions allocated to the institution under conditions delineated in the bill;
- Allows public institutions of higher learning to offer and fund, from any source of revenue other than state-approved sources, health insurance to full-time graduate assistants under a plan developed and approved by the institution;
- Provides that the board of a public institution is vested with the power of eminent domain over private lands as provided in the bill, and subject to approval of the State Budget and Control Board;
- Allows a public institution of higher learning to negotiate for its annual audit and quality review process with firms selected from a list preapproved by the State Auditor's Office;
- Provides that one-half of the funds appropriated from the Education Lottery for technology must be used for a University Technology Program and awarded to public four-year universities, excluding USC-Columbia, Clemson, and MUSC, and provides a formula for awarding these funds;
- Repeals a section of law which authorizes establishment of a four-year culinary arts program at Trident Technical College;
- Provides that, in addition to current **qualifications required for a Palmetto Fellows Scholarship**, a student shall have either of the following:
  - a minimum score of 1200 on the SAT or an equivalent ACT score; a cumulative 3.5 grade point ratio at the end of the junior year; and rank in the top six percent of the class at the end of the sophomore or

junior year or at the end of the first semester of the senior year, as provided in the bill;

**OR**

- A minimum score of 1400 on the SAT or an equivalent ACT score; and a cumulative 4.0 grade point ratio at the end of the junior year;
- Provides that a student who met the initial eligibility requirements for the Palmetto Fellows Scholarship as a high school senior and has met the continuing eligibility requirements shall receive the award. Also, a student who received this scholarship as a high school senior, but who declined the award may reapply for the annual scholarship if he meets the initial and continuing academic eligibility requirements, if he transfers to a qualifying in-state institution.
- Requires that the number of semesters or years a student attends an out-of-state institution must be deducted from the number of semesters or academic years a student is eligible for the scholarship.

The Committee recommitted to subcommittee **H.3773**, which provides a **SALES TAX EXEMPTION FOR THE SALE PRICE OF GOLD, SILVER, AND PLATINUM BULLION, COINS, AND CURRENCY**. (Note: this bill was subsequently recalled from the Ways and Means Committee and is now on the House calendar.)

The Committee reported favorable with amendment on **H.3905**, regarding the State Auditor. As reported by the Committee, this comprehensive bill revises numerous provisions regarding the **DUTIES, OVERSIGHT FUNCTIONS, AND RESPONSIBILITIES OF THE STATE AUDITOR**. The bill deletes archaic language and out-of-date requirements and practices, and specifies more modern audit practices to be followed by the State Auditor.

The Committee reported favorable with amendment on **H.3742**. Currently, resident **VENDORS** or vendors whose products are indigenous to South Carolina are provided a seven percent preference for purposes of the State Procurement Code. This bill replaces this preference with a "Best Value Preference," which is provided to vendors who show the most positive economic impact based on a model to be determined by the Board of Economic Advisors and approved by the State Budget and Control Board. As reported by the Committee, these provisions do not apply to any solicitation, bid, offer, or procurement where the contract award is less than twenty-five thousand dollars.

The Committee reported favorable with amendment on **H.3264**. As reported by the Committee, this bill **EXEMPTS FROM PROPERTY TAX AN AMOUNT OF FAIR MARKET VALUE OF CERTAIN OWNER-OCCUPIED REAL PROPERTY LOCATED IN THE COUNTY, SUFFICIENT TO ELIMINATE ANY INCREASE IN FAIR MARKET VALUE ATTRIBUTABLE TO A COUNTYWIDE APPRAISAL AND EQUALIZATION PROGRAM**.

The bill provides that once the fair market value of the property is first reduced, that reduced value remains the fair market value subject to property tax, regardless of further increases in fair market value of that real property as determined in subsequent countywide appraisal and equalization programs. The bill provides that when real property is transferred so that the property is no longer eligible for the exemption, the property is subject to being taxed in the tax year following the transfer at its value, at current fair market value as determined by the County Assessor. The bill includes

relevant notice requirements for closing attorneys in a real estate transfer and includes provisions and procedures required to qualify for the exemption.

The bill repeals a section of law which authorizes the governing body of a county by ordinance to exempt an amount of fair market value of real property located in the county sufficient to limit to fifteen percent any valuation increase attributable to a countywide appraisal and equalization program.

The Committee reported favorable with amendment on **H.3453**, regarding **PROPERTY TAXES ON CERTAIN BOATS**. The bill provides that a boat on which the interest portion of indebtedness is deductible under the IRS Code as an interest expense on a qualified primary or second residence is also a primary or second residence for purposes of *ad valorem* taxation in South Carolina and is considered real property for property tax purposes. This provision would change the assessment ratio on these boats from 10.5% to 6%. The bill also provides an exemption from property taxes for an amount of the fair market value of any watercraft sufficient to limit to one thousand, five hundred dollars the total property tax on the watercraft for a property tax year.

The Committee reported favorable on **H.3301**. This bill provides that the **\$50,000 HOMESTEAD EXEMPTION PROVIDED TO PERSONS OVER SIXTY-FIVE YEARS AND TO PERSONS WHO ARE DISABLED, MUST BE INDEXED TO INFLATION** in the same manner and percentage that federal income tax brackets are adjusted to reflect increases in the consumer price index.

The Committee reported favorable on **H.3305**, a bill which **AUTHORIZES MONTHLY INSTALLMENT PAYMENTS OF REAL PROPERTY TAXES**.

The Committee recommitted to subcommittee **H.3702**, a bill which **REVISES CURRENT REQUIREMENTS REGARDING SCHOOL DISTRICTS CONTRACTING WITH PRIVATE INDIVIDUALS OR CONTRACTORS FOR TRANSPORTATION SERVICES, BY PROVIDING A REVISED METHOD OF CALCULATING AID FROM THE STATE**.

The Committee reported favorable with amendment on **H.3724**, a bill which **AMENDS THE TAX INCREMENT FINANCING ACT FOR COUNTIES** by extending the application of the Act to more rural areas and by adding additional elements to development projects necessary to assist such rural areas.

As reported by the Committee, the bill adds to the factors which may lead to an area's designation of "blighted," areas which are impaired by presence of or potential environmental hazard; lack of storm drainage; and inadequate transportation infrastructure.

The bill adds to the factors which may lead to an area's designation of "conservation area," presence of or potential environmental hazard; lack of storm drainage; inadequate transportation infrastructure; agricultural foreclosures; static or declining agricultural land rental rates; depopulation; area-wide economic decline; or static *per capita* income.

The bill also expands the definition of a "sprawl area" which is a rural development zone, and expands the definition of "redevelopment plan," "redevelopment project," "redevelopment project area," and "redevelopment project costs."

# BILLS INTRODUCED IN THE HOUSE THIS WEEK

## AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

### **H.3952 PROHIBITION AGAINST HUNTING FROM CERTAIN PUBLIC ROADS AND RAILROAD RIGHTS-OF-WAY Rep. Stewart**

Current law provides that it is unlawful for a person to hunt from a public road or railroad right-of-way if the person does not have permission to hunt the land immediately adjacent to the public road or railroad right-of-way. Under this bill, 'hunting' is defined as the act of trying to find, seek, obtain, pursue, or diligently search for game and includes, but is not limited to, taking deer by occupying stands for that purpose.

For purposes of this bill possessing, carrying, or having readily accessible within the public road or railroad right-of-way, a loaded centerfire rifle, or a shotgun loaded with shot size larger than number four may be considered by the finder of fact as evidence that a person engaged in hunting in violation but does not independently constitute acts in violation of this bill. For purposes of this bill, 'loaded' means a weapon within which any ammunition is contained. For purposes of this bill, the terms 'possessing', 'carrying', and 'having readily accessible' do not include a centerfire rifle or shotgun which is contained in a closed compartment, closed vehicle trunk, or vehicle traveling on a public road.

Violations are misdemeanors punishable by a fine of not less than \$100 dollars nor more than \$500 dollars or imprisonment for not more than 30 days.

## EDUCATION AND PUBLIC WORKS

### **S.236 COUNTERFEIT DRIVER'S LICENSE Sen. Ryberg**

This bill provides that it is unlawful to display, possess, or produce a counterfeit driver's license or personal identification card. The bill also revises provisions regarding the prohibition against altering, selling, possessing, or using fraudulently, a motor vehicle driver's license by adding that these provisions also apply to an identification card.

### **S.414 ELIGIBILITY FOR LIFE SCHOLARSHIPS Sen. Moore**

This bill revises eligibility and retention requirements for the LIFE Scholarship by including a requirement that the cumulative grade point average calculation, for purposes of LIFE Scholarship eligibility, must be inclusive of the student's grade point average at all public or independent institutions attended by the student.

### **S.610 CERTIFICATES FOR LAW ENFORCEMENT TRAINING Sen. Fair**

Regarding the issuance of certificates that indicate that a person has completed successfully certain law enforcement training, this bill deletes the provision that allows candidates for certification as Class II-SCO (Department of Corrections) in any county

with a prison system that borders another state to hold a driver's license issued by any jurisdiction of the United States, and replaces it with a provision that allows candidates for certification as state or local correctional officers to hold a valid current driver's license issued by any jurisdiction of the United States.

## JUDICIARY

### **S.16 METHAMPHETAMINE AND COCAINE BASED DRUGS**

Under this bill, manufacturing or trafficking in methamphetamine is a violent crime.

The bill amends terms used in the Controlled Substance Act. The bill revises the definition of the term paraphernalia. The bill revises the definition of the term crack cocaine by defining cocaine base. The bill adds the definition of the term methamphetamine, which includes crank, ice, and crystal meth. The bill deletes the current definition of the term 'ice or crank.' The bill clarifies penalties for violations pertaining to methamphetamines and cocaine based drugs.

Under the bill, it is unlawful for a person to take or exercise control over a controlled substance, the immediate precursor of a controlled substance or ephedrine, pseudoephedrine, or phenylpropanolamine belonging to another person or entity with the intent to deprive the person or entity of the controlled substance, the immediate precursor, or ephedrine, pseudoephedrine, or phenylpropanolamine.

This bill provides that it is unlawful for a person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains 12 grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. Violations are felonies. The bill outlines exceptions for certain products.

The bill allows a person 18 years of age or older to be charged with unlawful conduct towards a child, if a child was present at any time during the unlawful manufacturing of methamphetamine.

### **S.108 CIVIL CAUSE OF ACTION FOR UNCOMPENSATED RECEIPT OF HEALTH CARE SERVICES AND CIVIL CAUSE OF ACTION FOR FAILURE TO PROVIDE HEALTH CARE SERVICES AFTER**

#### **ACCEPTING**

#### **A DOWN PAYMENT Sen. Fair**

This bill creates a civil cause of action for uncompensated receipt of health care services when a person secures performance of such services, has received insurance proceeds or third party payment to pay for such services, and after receiving proper notice has not remitted the payment to the health care provider. The bill establishes notice requirements, a schedule of damages, including actual damages and liquidated damages as a percentage of the actual damages, and defenses to this cause of action.

The bill also provides that a health care service provider who accepts a down payment for compensation in order to perform health care services for a patient and fails to perform the services is subject to a cause of action for reimbursement of the down payment made and is also subject to a claim for liquidated damages.

**S.276 CHILD OF QUALIFIED ELECTOR MAY ACCOMPANY PARENT IN VOTING BOOTH Sen. Hayes**

Under this bill, minor children of a qualified elector may accompany the qualified elector in the voting booth while he/she is casting his/her ballot. The qualified elector shall attest that the persons accompanying him/her are the minor children of the elector.

**S.347 DEFACING, VANDALIZING, TAMPERING WITH, OR REMOVING A POLITICAL CAMPAIGN SIGN Sen. Lourie**

This bill provides that it is unlawful to deface, vandalize, tamper with, or remove a lawfully placed political campaign sign prior to the election without the permission of the candidate or party. This bill does not apply to a governmental entity when a political campaign sign is removed because of noncompliance with applicable law, or because an employee of the governmental entity removing the sign is working within the course and scope of his/her employment. Violations are misdemeanors punishable by a fine of not more than \$100 dollars or imprisonment for not more than 30 days, or both.

**S.384 MINORS ACCESS TO TOBACCO Sen. Lourie**

Under this bill, it is unlawful for a person to sell, furnish, give, distribute, purchase for, or provide a minor under the age of 18 with cigarettes, tobacco, cigarette paper, or a tobacco product.

The bill places limitations on selling tobacco products through vending machines.

The bill makes it unlawful for a person under 18 to purchase, accept receipt of, or possess, or attempt to purchase, attempt to accept receipt of, or attempt to possess a tobacco product, or offer to a person proof of age that is false or fraudulent for the purpose of purchasing or possessing a tobacco product. Exceptions are made for people under 18 who make certain deliveries.

Violations are misdemeanors triable exclusively in either municipal or magistrate's court. For a first offense, the penalty is a fine of not less than \$50 dollars nor more than \$100 dollars. For a second offense, which occurs within three years of the first offense, the penalty is a fine of not less than \$100 dollars nor more than \$200 dollars. For third and subsequent offenses, which occur within three years of the first offense, the penalty is a fine of not less than \$200 dollars nor more than \$300. Fifty percent of fines must be deposited with the State Treasurer who will deposit the fine received to the Department of Health and Environmental Control to be used for the department's Youth Smoking Prevention Plan.

In lieu of these penalties, the court may require an individual who is less than 18 who illegally purchases or possesses a tobacco product to perform not less than 24 hours of community service for the first offense and not less than 40 hours of community service for a second or subsequent offense. A person who is less than 18 may have his or her record expunged upon becoming 18 if the person has paid the fine imposed and successfully completed any court-ordered community service. A violation of the provisions of this bill does not violate an establishment's beer and wine permit and is not a ground for revocation or suspension of a beer and wine permit. Also, a conviction

does not affect a person's eligibility for a LIFE Scholarship or any other state sponsored scholarship program.

**S.749 *ADMISSIBILITY OF OUT-OF-COURT STATEMENTS MADE BY A CHILD LESS THAN TWELVE YEARS OF AGE* Senate Judiciary Committee**

This bill provides that an out-of-court statement made by a child less than 12 years of age describing certain offenses that the child is a victim of or witness to is admissible as evidence under certain circumstances.

**H.3944 *CREDITORS' CLAIMS AGAINST AN ESTATE* Rep. Toole**

This bill increases the time for presentation of claims against an estate from within eight months to within 12 months after notice to the creditors. The bill further provides that a creditor may file a claim against a decedents' estate at any time within 12 months after the death of the decedent.

**H.3945 *AUTHORITY OF THE DEPARTMENT OF REVENUE TO CONTRACT TO COLLECT AN OUTSTANDING LIABILITY OWED TO A GOVERNMENTAL ENTITY* Rep. Toole**

This bill relates to authority of the Department of Revenue (DOR) to contract to collect an outstanding liability owed to a governmental entity. The bill provides that the fee charged by DOR must be paid by the debtor and not the governmental entity for whom the debt is collected.

**H.3951 *METHAMPHETAMINE AND COCAINE BASED DRUGS* Rep. Thompson**

Under this bill, manufacturing or trafficking in methamphetamine is a violent crime.

The bill amends terms used in the Controlled Substance Act. The bill revises the definition of the term paraphernalia. The bill revises the definition of the term crack cocaine by defining cocaine base. The bill adds the definition of the term methamphetamine, which includes crank, ice, and crystal meth. The bill deletes the current definition of the term 'ice or crank.' The bill clarifies penalties for violations pertaining to methamphetamines and cocaine based drugs.

Under the bill, it is unlawful for a person to take or exercise control over a controlled substance, the immediate precursor of a controlled substance or ephedrine, pseudoephedrine, or phenylpropanolamine belonging to another person or entity with the intent to deprive the person or entity of the controlled substance, the immediate precursor, or ephedrine, pseudoephedrine, or phenylpropanolamine.

This bill provides that it is unlawful for a person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains 12 grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. Violations are felonies. The bill outlines exceptions for certain products.

**H.3953 *OBSTRUCTION OF LEGAL PROCESS* Rep. White**

Under this bill, it is unlawful for a person to intentionally or knowingly: (1) obstruct, resist, or oppose a process server or other authorized person serving or attempting to serve or

execute a process, rule, or order of a court in this State; or (2) interfere with the service of process, rule, or order of a court by the use of force, violence, intimidation, or other unlawful act. A person who violates this provisions commits the offense of obstruction of legal process and is guilty of a misdemeanor and, upon conviction, must be fined not more than \$1,000 dollars or imprisoned for not more than one year.

**H.3954 SEX OFFENDER REGISTRY Rep. Jennings**

Notwithstanding another provision of law, a person convicted of kidnapping before the effective date of the sex offender registry is subject to a hearing before he/she is released from the Department of Corrections to determine whether the kidnapping offense included a criminal sexual conduct offense or an attempted criminal sexual conduct offense. This hearing must be brought before the Administrative Law Court to make a finding on the record whether or not the person must be placed on the sex offender registry pursuant to the requirements of this section. Appeal from the final decision of an administrative law judge is to the Court of Appeals.

**H.3957 "UNBORN VICTIMS OF VIOLENCE ACT OF 2005" Rep. Haskins**

This bill provides that a person who commits a violent crime that causes the death of, or injury to, a child in utero is guilty of a separate offense and that the person must be punished as if the death or injury occurred to the unborn child's mother.

Prosecution of an offense does not require proof that: (1) the person committing the violent offense had knowledge or should have had knowledge, that the victim of the underlying offense was pregnant; or (2) the defendant intended to cause the death of, or bodily injury to, the unborn child.

If the person engaging in the violent offense intentionally killed or attempted to kill the unborn child, that person must be punished for murder or attempted murder. Notwithstanding any provision of this section or any other provision of law, the death penalty must not be imposed for an offense prosecuted under this legislation.

Nothing in this legislation may be construed to permit the prosecution: (1) of a person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law; (2) of a person for any medical treatment of the pregnant woman or her unborn child; or (3) of a woman with respect to her unborn child.

**H.3958 FOR PURPOSES OF A CIVIL CAUSE OF ACTION THE TERM "PERSON" INCLUDES AN UNBORN CHILD Rep. Ceips**

This bill provides that for purposes of a civil cause of action, the term "person" includes an unborn child at every stage of gestation in utero from conception until live birth. Nothing in this bill may be construed to: (a) abridge, alter, amend, or supplant the common law or statutory laws of South Carolina regarding civil actions for medical malpractice or wrongful death brought against medical professionals on account of acts of omission or commission occurring during the course of providing medical services or treatment; (b) apply to or infringe upon a pregnant female's constitutional right to privacy, or a pregnant female's right to a lawful abortion; (c) apply to a medical procedure performed by a physician or other licensed health care provider at the request of a pregnant female or her legal guardian, any medical procedure for which consent is implied by law or is not required by law, or to the lawful prescription, dispensation, administration, or delivery of lawfully prescribed medications, injections, or devices.



A pregnant female is not subject to a civil suit under this section for acts affecting her unborn child, except in the case of illegal drug use.

A person or health care provider is not subject to a civil suit under this section for: (1) conduct relating to or arising out of the performance of a lawful abortion; (2) acts performed in the process of providing medical treatment to a pregnant female or her unborn child, or for the lawful prescription, dispensation, administration, or delivery of lawfully prescribed medications, injections, or devices.

**H.3960 STATE EMPLOYMENT Rep. Loftis**

Under this bill, an individual who is employed by the State may not serve on the governing board of the agency employing him/her or on any other state board or commission which regulates an industry with which the employee is involved in the performance of his/her official duties.

## **LABOR, COMMERCE AND INDUSTRY**

**S.75 WORKERS' COMPENSATION OF LAW ENFORCEMENT OFFICERS  
FOR**

**CARDIAC-RELATED INCIDENTS Sen. Knotts**

This bill revises occupational disease provisions of South Carolina Workers' Compensation Law so as to provide for conditions under which a cardiac-related incident resulting in impairment or injury to a law enforcement officer resulting in total or partial disability, or death, is presumed to have arisen out of, and in the course of, employment.

**S.511 USE OF INSURANCE PROCEEDS TO RECONSTRUCT DAMAGED  
PROPERTY GOVERNED BY THE HORIZONTAL PROPERTY ACT  
Sen. Richardson**

This bill revises provisions for the use of insurance proceeds to reconstruct damaged property governed by the Horizontal Property Act, so as to provide for repair or reconstruction upon a vote of eighty percent of the co-owners, or more if required by the property bylaws, and to provide, further, for distribution of insurance proceeds.

**S.557 WORKERS' COMPENSATION BENEFITS OF PRISONERS IN THE  
CUSTODY OF COUNTY OR MUNICIPAL PENAL SYSTEMS  
Sen. Richardson**

This bill provides that when a county or municipality elects to cover its prisoners with workers' compensation benefits, the coverage also includes: (a) those prisoners who have been sentenced to the Department of Corrections and who are assigned to a county or municipality, and (b) those prisoners who have been sentenced to the Department of Corrections and who are being used for public service work or related activities while being supervised by the county or municipality.

**S.707 ELECTION OF CONSUMER AFFAIRS COMMISSIONERS Sen. Thomas**

This bill revises provisions for the selection of members of the Commission on Consumer Affairs, so as to provide for the election of the commissioners elected by the General Assembly every four years, beginning February 1, 2006.

**H.3959 CHOICE OF PHARMACIST UNDER HEALTH INSURANCE PLANS**

**Rep. White**

This bill revises the prohibition against limiting a participant or beneficiary of a health insurance policy or health maintenance organization plan from selecting a pharmacy or pharmacist of his own choice, so as to eliminate provisions that require the pharmacy or pharmacist to agree to participate in the plan according to the insurer's terms.

**S.573 PUBLIC SERVICE AUTHORITY Sen. McConnell**

This bill adds the Directors of The South Carolina Public Service Authority to the list of officers who may be removed by the Governor for cause. The bill revises governmental immunity provisions, so as to provide that the Public Service Authority is not liable for certain losses resulting from conduct of a director of the authority. The bill specifies conduct for which a director of the Public Service Authority is not immune from liability and prohibits the Insurance Reserve Fund from providing insurance coverage for that individual liability. The bill provides that the Public Utilities Review Committee has the duty to screen candidates for the Board of Directors of the Public Service Authority. The bill establishes qualifications and requirements for members of the Board of Directors of the Public Service Authority. The bill prohibits the Public Service Authority from disposing of certain property without prior approval of the General Assembly or from inquiring into the feasibility of disposing of its property. The bill establishes standards of conduct for directors of the Public Service Authority. The bill defines conflict of interest transaction. The bill permits customers of the Public Service Authority to sue directors of the authority for breach of duty and provides for damages. The bill provides that only the net earnings not necessary for the operation of and in the best interest of the Public Service Authority shall be paid to the State Treasurer and used to reduce the tax burdens on the people of the State.

**S.580 ACCESSIBILITY COMMITTEE FOR THE BUILDING CODES COUNCIL**

**Sen. Knotts**

This bill revises provisions for the Accessibility Committee for the Building Codes Council, so as to clarify that the committee shall advise the council on matters of accessibility to buildings, structures, and facilities by persons with disabilities.

**S.637 PROFESSIONAL EMPLOYER ORGANIZATIONS Sen. Jackson**

This bill revises provisions for the regulation of staff leasing services, so as to change the term "staff leasing services" to "professional employer organizations" and to provide for the licensure and regulation of these organizations that provide employees to businesses generally on a long term basis. The bill requires two years of industry experience to be licensed and provides a grandfather provision for existing licensees. The bill establishes continuing education requirements. The bill authorizes the Department of Consumer Affairs to use an assurance organization to certify the qualifications of a professional employer organization for licensure. The bill specifies insurance information that an organization must provide to employees and the department, and further specifies requirements when providing employee insurance.

**MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

**S.268 LICENSURE AND REGULATION OF OPTOMETRISTS Sen. Peeler**

This bill rewrites the practice act for optometrists to make it conform to the administrative framework established for all boards and commissions administered by the Department of Labor, Licensure and Regulation. The legislation does make some substantive changes including, but not limited to: providing that a bachelor of arts or bachelor of science degree is required for licensure; establishing licensure by endorsement; and providing that by September 30, 2008, all licensed optometrists must be licensed as therapeutically-certified optometrists.

**S.506 FIDELITY BONDS FOR COUNTY OFFICIALS Sen. Scott**

A fidelity bond is an "honesty bond" that would indemnify a county for loss due to embezzlement, larceny, or gross negligence by a county official or employee holding a position of trust. When bonding of county officials or employees is statutorily required, this bill allows the governing body of a county to purchase a fidelity bond to cover all or a portion of the county officials and employees. A fidelity bond may be used instead of specific statutory bond requirements. Any officials or employees not covered by a fidelity bond must be bonded as required by statute. The bill further provides that the purchase of a fidelity bond or the replacement of an existing bond with a fidelity bond covering one or more county officials or employees must be evidenced by passage of a resolution by the county's governing body. A fidelity bond must meet or exceed the minimum value of the bond required by the statute or statutes for the covered officials or employees.

**S.719 DEPARTMENT OF CORRECTIONS AUTHORIZED TO USE INMATE LABOR Sen. Fair**

This joint resolution authorizes the Department of Corrections to utilize inmate labor until July 1, 2007, to perform any portion of the construction or renovation, or both, of a food service facility at the Stevenson Correctional Institution and the relocation of a 96 bed housing unit from the former Greenwood work release facility to the Stevenson Correctional Institution.

**H.3943 "THERON NORRIS ACT" Rep. Loftis**

This bill requires health care facilities to implement a method of identifying patients with mental or neurological impairments or conditions so that if the patient is off his or her unit, the patient's impairment or condition can be readily known. The bill further provides that such a patient must not be left unattended or unsupervised while off his or her unit.

**H.3968 "HEALTHY SOUTH CAROLINIANS 2010 ACT" Rep. Govan**

This bill enacts the Healthy South Carolinians 2010 act and provides that the Department of Health and Environmental Control shall develop and promote Healthy South Carolinians 2010 goals and objectives using the Federal Healthy People 2010 as a model. The bill provides that the department shall report annually to the General Assembly on the status of disparities in health among minorities and nonminorities. The bill provides that the department shall work with minority physician networks to develop programs to educate health care professionals about the importance of culture in health status. The bill provides that the department shall work with health organizations to increase the proportion of health care professionals from minority backgrounds. The bill further provides that the department shall promote research on methods to reduce disparities in health care. Under the bill, the Department of Health and Human Services shall contract with minority physician networks to provide cost-effective Medicaid services. The bill provide that the department shall work to expand minority physician networks in each health district.

**H.3972 AMENDMENTS TO THE PROVIDER SELF-REFERRAL ACT**

**Rep. Emory**

This bill amends the Provider Self-Referral Act. This bill clarifies that the exemption for an investment interest in an entity in rural areas must only provide 75 percent or more of the designated health services, rather than all of these services.

**WAYS AND MEANS**

**S.165 ALCOHOLIC LIQUORS Sen. Elliott**

This bill imposes a five percent tax on the gross proceeds of the sale of alcoholic liquor by the drink for on-premises consumption. The bill provides that entities which are by law allocated minibottle revenues in Fiscal Year 2003-04 for education, prevention, and other purposes, shall receive at least the same amount of revenues from the new excise tax revenues beginning with the first full fiscal year after sales of liquor by the drink are authorized. If they do not receive the same amount, the difference must be made up from the general fund.

The bill provides that wines containing more than twenty-one percent of alcohol may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquor by the drink. Currently, this provision relates to wines containing more than sixteen percent of alcohol.

The bill allows a retail dealer to sell, offer for sale, barter, exchange, give, transfer, deliver, permit to be sold, own, or keep in his possession alcoholic liquors without regard to the size of the container. The bill revises the hours which a retailer may exercise these options from the current 7 p.m. until 9 a.m. to 7 p.m. to 7 a.m.

The bill provides that it is unlawful for a retail dealer to knowingly and willfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle. The bill provides that violation of this provision is a misdemeanor and the bill provides punishment for first and second and subsequent offenses.

The bill provides that it is unlawful for a person licensed to sell alcoholic liquor by the drink to knowingly and willfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle. The bill provides that violation of this provision is a misdemeanor and the bill provides punishment for first and second and subsequent offenses.

The bill allows a licensed retail dealer with a wholesaler's basic permit issued pursuant to the Federal Alcohol Administration Act to deliver, in sealed containers, alcoholic liquors to the location of a person licensed to sell alcoholic liquor by the drink for on-premises consumption. The bill prohibits a person licensed to sell alcoholic liquor by the drink for on-premises consumption from being licensed as a retail dealer on the same premises.

**H.3946 SPENDING LIMIT RESERVE FUND Rep. G.R. Smith**

This joint resolution provides for a referendum to determine if the South Carolina Constitution should be amended so as to provide that the General Assembly establish a new "Spending Limit Reserve Fund" to which would be credited all general fund revenues in a fiscal year in excess of the constitutional spending limit. The resolution provides that the General Assembly would define "surplus revenues" and provide the purposes for which the revenue credited to the fund must be used, and the timing and method of the General Assembly's appropriations of these revenues.

**H.3949 CHARITY GAMING Rep. Cooper**

This is a "skeleton bill" relating to provisions for charity gaming.

**H.3950 SALES TAX EXEMPTION FOR CERTAIN MEDICAL EQUIPMENT Rep. E.H. Pitts**

This bill provides a sales tax exemption, phased in to be complete after four years, from the gross proceeds of sales or sales price of durable medical equipment and related medical supplies eligible for Medicare or Medicaid reimbursement and which are sold by written prescription or certificate of medical necessity.

**H.3967 COLLECTION AND REMITTANCE OF COUNTY SALES AND USE TAX Rep. Coleman**

This bill provides that a retailer who does business in South Carolina who delivers tangible personal property into a county in which the retailer maintains no retail locations and in which is imposed a local sales and use tax administered by the Department of Revenue, is not required to collect and remit that county's local sales and use tax.

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The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on "*Publications*," then click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need.

**NOTE: THE LEGISLATIVE UPDATE IS AVAILABLE TO LEGISLATIVE TRACKING SUBSCRIBERS. YOU MAY REGISTER FOR THIS FREE SERVICE ON THE SOUTH CAROLINA GENERAL ASSEMBLY HOME PAGE BY CLICKING ON "ELECTRONIC TRACKING" (UNDER "LEGISLATIVE RESOURCES"), THEN CLICKING ON "ADD NEW SUBSCRIPTION RECORD" AND COMPLETING THAT FORM.**